

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Damarious Toler

Case: 2:22-mj-30022

Case No.

Judge: Unassigned,

Filed: 01-13-2022 At 10:22 AM

USA v. DAMARIOUS TOLER (CMP)
(MLW)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 2, 2021 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 922(g)(1)

Felon in possession of a firearm

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: January 13, 2022City and state: Detroit, Michigan*Complainant's signature*Special Agent Jimmie Pharr, A.T.F.*Printed name and title**Judge's signature*Hon. Anthony P. Patti, U.S. Magistrate Judge*Printed name and title*

**AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, Jimmie Pharr, Special Agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives, being duly sworn, hereby depose and state as follows:

I. INTRODUCTION

1. I have been a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since January 17, 2016. I am currently assigned to the Detroit Field Division. I completed 26 weeks of training, comprised of the Criminal Investigator Training Program and the ATF Special Agent Basic Training program at the Federal Law Enforcement Training Center in Glynco, Georgia. I received extensive training on firearms identification, common scenarios involving firearms and narcotics trafficking, and identification and effects of controlled substances. Additionally, I received training on undercover investigations related to firearms and narcotics trafficking, which included investigative techniques and common subject behavior. I was also a Detroit Police Officer for approximately three years, from 2013 to 2016, during which I conducted and participated in many investigations focused on individuals who illegally possessed firearms and narcotics.

2. This affidavit is in support of an application for an arrest warrant for Damarious TOLER (DOB: XX/XX/1998) for violating 18-U.S.C. § 922(g)(1) (felon in possession of a firearm).

3. The facts in this affidavit come from my personal observations, training, experience, and information obtained from other members of law enforcement and witnesses. This affidavit is intended to show that there is sufficient probable cause for the requested warrant and does not set forth all information known to law enforcement regarding this investigation.

4. The probable cause supporting this warrant is based primarily on social media posts and forensic extractions of cell phones, including location information, showing TOLER, a convicted felon, possessing firearms (with visible serial numbers) that were not manufactured in Michigan.

II. SUMMARY OF THE INVESTIGATION

5. During January 2021, ATF received information from the Detroit Police Department (DPD) regarding TOLER, a convicted felon, possessing firearms. DPD indicated that TOLER had been observed in possession of multiple firearms in posts on the social media site

Facebook under the Facebook account “Rip Tone,” Facebook User ID: mar.hussein.503.

6. During January 2021, I reviewed TOLER’s computerized criminal history (CCH), which revealed that TOLER has the following felony convictions: Second Degree Home Invasion and Larceny in a Building, in Third Circuit Court of Michigan, Case Number 16-010263-01-FH, sentenced on January 18, 2017.

7. Based on this conviction, TOLER is prohibited from possessing firearms and ammunition under 18 U.S.C. § 922(g)(1). His criminal history also revealed that he was on parole with the Michigan Department of Corrections (MDOC). On November 8, 2019, MDOC notified TOLER that he could not possess firearms or ammunition.

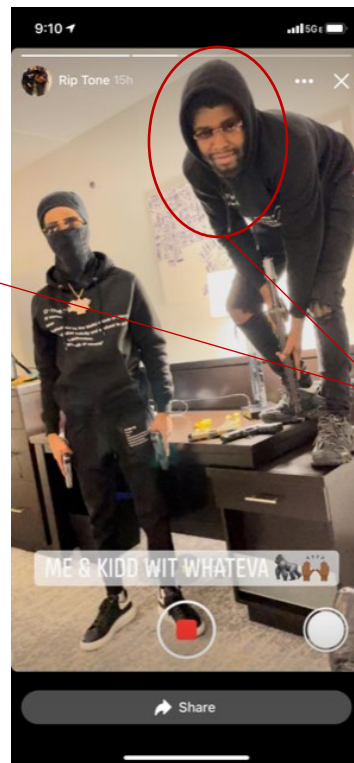
8. In February 2021, I reviewed social media posts associated with the Facebook Account “Rip Tone,” Facebook User ID: mar.hussein.503, including the account’s “stories” (short videos or images that can be posted to a Facebook account and displayed publicly or to the user’s friends or followers in a private account) and other posted images. I compared photographs from the account (Exhibit A and Exhibit B) to a Michigan Secretary of State Identification

photograph of TOLER issued November 21, 2019 (Exhibit C). Based on this comparison, I identified TOLER as the individual in the images posted to the account. Further, based on how frequently TOLER appears in the posts and videos, I believe TOLER is the account user.

Exhibit A



Exhibit B



TOLER

Exhibit C



9. During my review of the “Rip Tone” Facebook account, I observed multiple posts depicting TOLER in possession of firearms. In an image posted on August 18, 2020, TOLER is depicted in what appears to be a Family Dollar Store parking lot, holding a firearm in his right hand (Exhibit D). In an image posted on January 23, 2021, TOLER is seen standing next to an unidentified male, holding an AR-style firearm bearing an Ethika logo (Exhibit E).

Exhibit D



Exhibit E



10. On February 11, 2021, I observed a post on the “Rip Tone” Facebook account that read “I need ah pistol 😊 this AR crampin my style” (Exhibit F). Based on my training and experience, I understood TOLER to be indicating that he wanted a pistol to replace an AR-style firearm previously observed in Exhibit D.

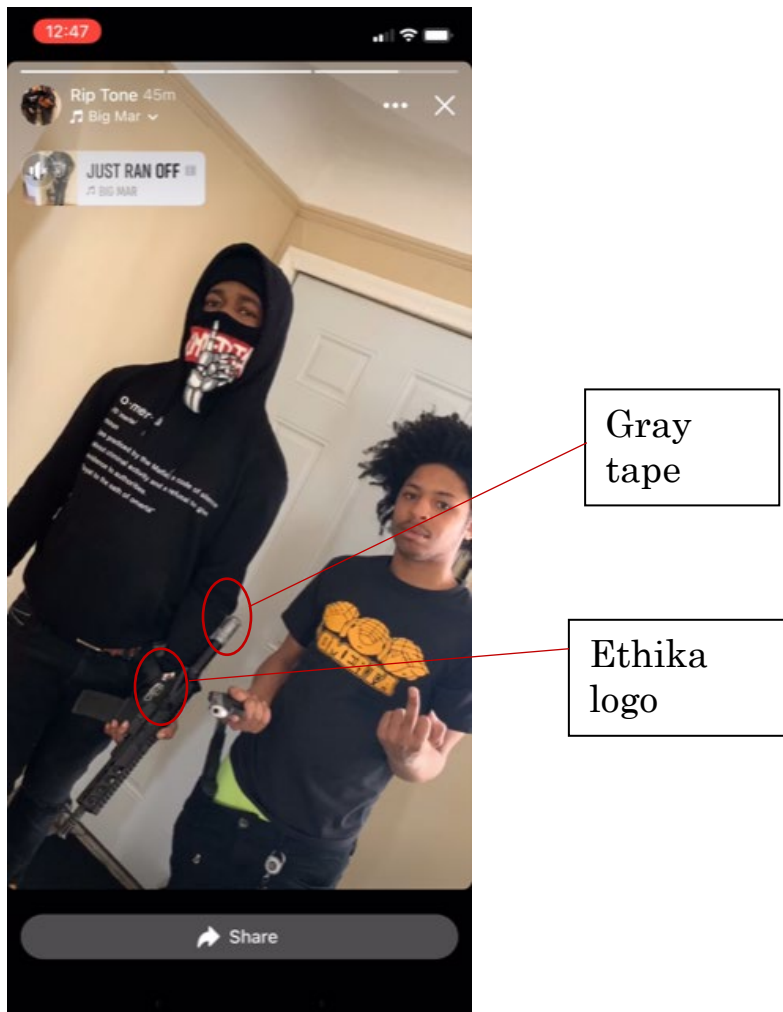
Exhibit F



11. Further, on February 13, 2021, I reviewed a Facebook “story” posted to the “Rip Tone” account and observed an image that

depicted TOLER standing next to an unidentified male, holding what appears to be the same AR style firearm TOLER possessed in previous posts. The AR style firearm has gray tape affixed on the end of the buffer tube and bears the Ethika logo (Exhibit G).

Exhibit G



12. On February 17, 2021, I reviewed another "story" on the "Rip Tone" Facebook account and observed an image that depicted TOLER holding a suspected firearm. On the countertop behind TOLER, there

appears to be an additional pistol, an unknown amount of U.S. currency, and an AR-style firearm similar to the one possessed by TOLER in previous posts and “stories” (Exhibit H).

Exhibit H



13. On February 18, 2021, I observed an image on the “Rip Tone” Facebook account that depicted TOLER standing on a desk in what appears to be a hotel room, holding what appears to be the same

AR style firearm, with gray tape affixed to the buffer tube, and two other firearms can be seen on the desk (Exhibit I). A few days later, on February 24, 2021, I observed a “story” posted to the account depicting TOLER with what appears to be a firearm in his hand (Exhibit J).

Exhibit I



Exhibit J



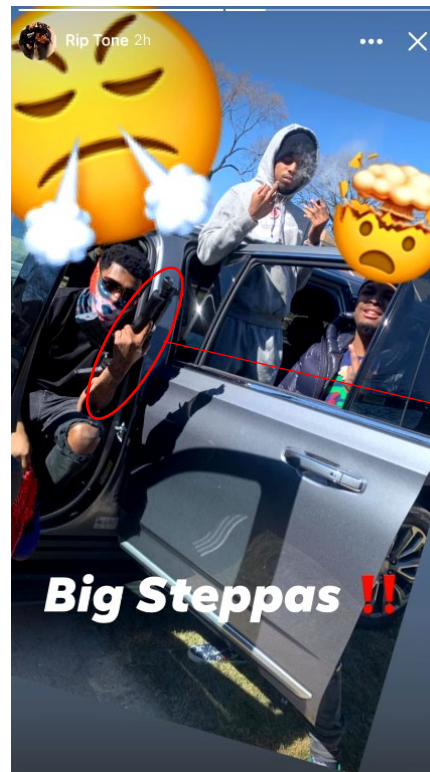
14. On March 12, 2021, I reviewed another Facebook “story” from the “Rip Tone” account and saw an image that depicted TOLER sitting in the front driver seat of an unidentified vehicle, holding what again appears to be a firearm in his right hand (Exhibit K). On the same date, I also saw an image that depicted TOLER sitting in the front driver seat of an unidentified vehicle, holding what appears to be the same firearm in his left hand, and two other unidentified individuals standing in the rear door jamb of the unidentified vehicle (Exhibit L).

Exhibit K



Firearm

Exhibit L



Firearm

15. On March 18, 2021, I again observed a Facebook image that depicted TOLER standing in the front door jamb of an unidentified vehicle, holding what appears to be a firearm in his left hand (Exhibit M). On the same day, I also observed an image that depicted TOLER standing next to an unidentified individual in what appears to be a residence with three firearms laying on the floor at his feet, with TOLER holding what appears to be an unknown amount of U.S. currency in his hands (Exhibit N).

Exhibit M



Exhibit N



Firearms

16. Based on my review of records returned pursuant to a federal search warrant for the “Rip Tone” Facebook account (2:21-mc-50275), TOLER provided a contact telephone number of 734-833-4734 to multiple individuals by means of Facebook messenger, from November 2020 to February 2021 (Exhibits O, P, Q).

Exhibit O

Author Scb Pooda (Facebook: 1727361458)
Sent 2020-11-25 18:52:04 UTC
Body What's yo number

Author Scb Pooda (Facebook: 1727361458)
Sent 2020-11-25 18:52:12 UTC
Body You missed a call from Scb.

Author Rip Tone (Facebook: 100040248487244)
Sent 2020-11-25 19:46:12 UTC
Body 7348334734

Exhibit P

Author Patt Mike (Facebook: 502728594)
Sent 2021-02-04 15:34:59 UTC
Body Your number still the same

Author Rip Tone (Facebook: 100040248487244)
Sent 2021-02-04 15:45:04 UTC
Body 7348334734

Exhibit Q

Author Rip Tone (Facebook: 100040248487244)
Sent 2021-02-24 23:05:22 UTC
Body Jasmine missed your call.

Author Rip Tone (Facebook: 100040248487244)
Sent 2021-02-24 23:05:33 UTC
Body 7348334734

17. On April 12, 2021, a federal search warrant was obtained for GPS/E-911 precision location information and a pen register on TOLER's cellular phone, telephone number 734-833-4734, to aid in locating TOLER's whereabouts (2:21-mc-50275-2 and 2:21-mc-50275-3). ATF Intelligence Research Specialist (IRS) Michael Malone served the

warrant to T-Mobile, and TOLER was later located via monitoring of GPS/E-911 data from TOLER's cellular telephone and vision observance of TOLER at 9988 Fielding Street in Detroit, Michigan.

18. On May 3, 2021, a federal search warrant was obtained for the search of 9988 Fielding Street in Detroit, Michigan, in relation to this case (2:21-mc-50275-4).

19. On May 4, 2021, ATF Agents and ATF Task Force Officers executed a federal search warrant at 9988 Fielding Street. TOLER was present and arrested on an outstanding parole violation warrant. Agents recovered two black Apple iPhone ("Subject Device 1" and "Subject Device 2") from the residence. Subject Device 1 had a photograph of TOLER holding a firearm as the background. Subject Device 2 had TOLER's Instagram ("omerta.bigmar") notifications visibly observable on the lock screen. TOLER claimed ownership to both devices and provided agents with the passcode to Subject Device 1 during a post-Miranda interview.

20. On May 6, 2021, a federal search warrant was obtained to search the Subject Devices (2:21-mc-50275-5). Between May 13, 2021 and June 15, 2021, I reviewed the forensic extractions.

***Images with Metadata without Location from
Subject Device with Phone Number 734-833-4734***

21. I completed a partial review of the forensic extraction and noted the following pertinent data of images with metadata but without location for the Subject Device with phone number 734-833-4734. I observed the following images associated with firearms.

a. An image dated November 30, 2020, at approximately 3:18 p.m., shows a Glock pistol, model: 32, caliber: .357, appearing to be in an individual's lap. During a post-Miranda interview on May 4, 2021, TOLER stated "his firearm" was a Glock pistol, model: 32, caliber: .357.



b. Images dated February 2, 2021, at approximately 2:09 p.m., appear to be a “selfie” of TOLER holding an Israel Weapons Industries (IWI) pistol, model: UZI Pro, caliber: 9mm, bearing serial number U1000473, and other photographs captured in the lap of TOLER.



***Images with Metadata and Location from
Subject Device with Phone Number 734-833-4734***

22. I completed a partial review of the forensic extraction and noted the following pertinent data of images with metadata and location for the Subject Device with phone number 734-833-4734. I observed the following images associated with firearms.

a. An image dated December 2, 2020, at approximately 2:08 p.m., shows TOLER in front of what appears to be a kitchen sink, holding an AR styled pistol. Metadata reveals latitude and longitude coordinates 42.406155, -83.207445, an area within the Eastern District of Michigan.



b. An image dated December 12, 2020, at approximately 9:55 p.m., depicts TOLER standing next to an unidentified male, holding an AR styled firearm. This firearm appears to be the same firearm that TOLER is in possession of in previous photographs on social media. Metadata reveals the latitude and longitude coordinates 42.385236, -83.198906, an area within the Eastern District of Michigan.



c. An image dated January 23, 2021, at approximately 9:36 p.m., depicting TOLER and another unidentified black male with firearms. Metadata reveals the latitude and longitude coordinates 42.355372, -83.222739, an area within the Eastern District of Michigan.



d. Images dated March 2, 2021, at approximately 4:39 p.m., depict TOLER holding what appears to be a Glock pistol, bearing serial number BPTD414. Metadata reveals the latitude and longitude coordinates 42.497650, -83.343353, also within this District.



e. An image dated March 8, 2021, at approximately 11:41 a.m., depicting TOLER in possession of firearms, one being a Ruger pistol. Metadata reveals the latitude and longitude coordinates 42.355377, -83.222564, an area within the Eastern District of Michigan.



***Text Messages with “SYD” from Subject
Device with Phone Number 734-833-4734***

23. I completed a partial review of the text messages recovered from the forensic extraction of the Subject Device with phone number 734-833-4734 and made the following pertinent observations.

a. The Subject Device engaged in text conversations with a cellular device with call number 313-550-0063. I recognized this call number to belong to Sydney Haddon. Sydney Haddon is TOLER’s

girlfriend and gave me her telephone number during an interview. I have also been contacted by Sydney Haddon from this call number regarding the arrest and detention of TOLER. I observed that this call number was saved into the Subject Device under the name “Syd.” “Syd” and TOLER engaged in the following conversation about firearms.

b. On November 25, 2020, at approximately 9:21 p.m., “Syd” contacted TOLER and asked him what he was doing (WYD) and TOLER replied “Nothing loading these guns.” TOLER sent “Syd” an image of two suspected firearms and suspected ammunition on a bed.

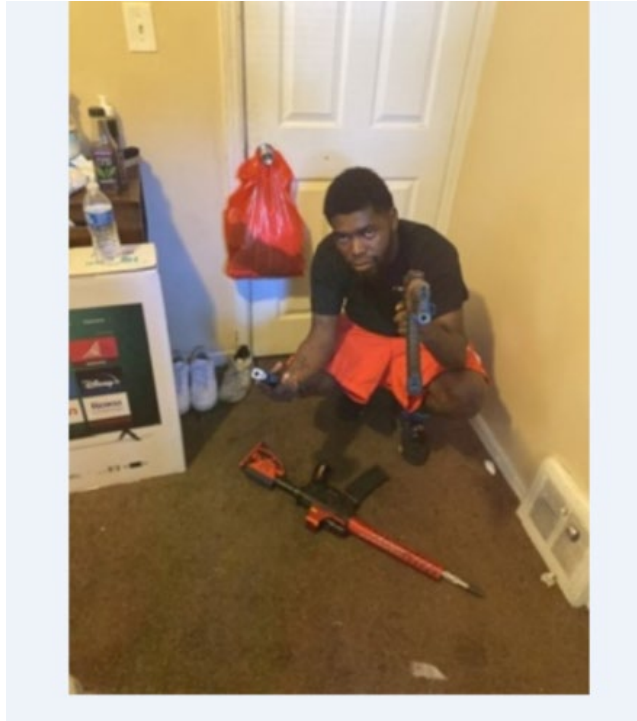
c. On November 29, 2020, at approximately 9:38 p.m., “Syd” contacted TOLER, asked him what he was doing and told him to come get “this stick.” TOLER stated that “I gave you that and went to grab my other stick.” “Syd” asked TOLER why she couldn’t get a better one, stated she needed her own, and asked TOLER to get her one. TOLER replied that he was about to get one and that he personally only had two pistols, a drac (draco) and a full AR (AR-15 styled firearm). TOLER then told “Syd” “But I gotchu baby.” I know that “stick” is a common street vernacular for a firearm, which appears to be the context of this text conversation.

d. On November 30, 2020, at approximately 3:19 p.m., “Syd” asked TOLER what he was thinking. TOLER replied “you know what I’m on . . . but how I’m finnah start moving around this bitch” and sent a photograph of a Glock 32 pistol in an individual’s lap. The photograph was captured on the Subject Device on November 30, 2020 and is shown in Paragraph 21a, above.

***Images with Metadata without Location from
Subject Device with Phone Number 313-398-4315***

24. I completed a partial review of the forensic extraction and noted the following pertinent data contained on the forensic extraction after conducting a review of images with metadata, but without location for Target device with phone number 313-398-4315. I observed the following images associated with firearms.

a. An image dated October 14, 2020, at approximately 6:11 a.m., shows TOLER in possession of what appear to be three firearms.



b. An image dated October 15, 2020, at approximately 6:56 p.m., shows TOLER in possession of what appear to be two firearms sitting at a table with clear knotted bags of suspected marijuana.



***Images with Metadata and Location from
Subject Device with Phone Number 313-398-4315***

25. I completed a partial review of the forensic extraction and noted the following summary of pertinent data after conducting a review of images with metadata and location for the Subject Device with phone number 313-398-4315. I observed the following images associated with firearms.

a. An image dated March 4, 2021, at approximately 1:26 a.m., depicting TOLER standing with Sydney Haddon and holding what appears to be an AK style firearm in his right hand. Metadata reveals the latitude and longitude coordinates 42.298755, -83.273545, an area within the Eastern District of Michigan.



b. An image dated April 26, 2021, at approximately 3:37 a.m., depicting TOLER next to what appear to be three firearms. Metadata reveals the latitude and longitude coordinates 42.391025, -83.111900, an area within the Eastern District of Michigan.



***Instagram Messaging from
Subject Device with Phone Number 734-833-4734***

26. I completed a partial review of the messages recovered from the forensic extraction of the Subject Device with phone number 313-398-4315 and made the following pertinent observations.

a. A conversation May 1, 2021 at approximately 5:47 p.m., between TOLER via his known Instagram name of “omerta.bigmar” with an individual with the Instagram name of “wealthy.jc.” In the conversation, TOLER was asked about firearms and TOLER responded that he has a .357 Glock and later states that he only has three guns. This consistent with what TOLER said during a post-Miranda interview with agents on May 4, 2021, stating “his firearm” was a Glock pistol, model: 32, caliber: .357.

27. As an ATF Firearm Interstate Nexus agent, it is in my opinion that the Glock pistol, model: 19X, caliber: 9mm bearing serial number BPTD414, possessed by TOLER in a photograph dated March 2, 2021, was manufactured outside of Michigan. It is also my opinion that the Israel Weapons Industries (IWI) pistol, model: UZI Pro, caliber: 9mm, bearing serial number U1000473, possessed by TOLER in a photograph dated February 2, 2021, was manufactured outside of Michigan. Therefore, both of the above-mentioned firearms possessed by TOLER traveled in interstate or foreign commerce.

III. CONCLUSION

28. Probable cause exists that Damarious TOLER, a convicted felon, was in possession of firearms, manufactured outside Michigan, knowing that he was a felon and prohibited from possessing any firearms or ammunition, in violation of Title 18, U.S.C. § 922(g)(1).



Jimmie Pharr, Special Agent,
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Sworn to before me and signed in my presence
and/or by reliable electronic means.



HON. ANTHONY P. PATTI January 13, 2022
UNITED STATES MAGISTRATE JUDGE